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File No. O. Nurses/1941

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Legal DEPARTMENT

A BRANCH

Subject:—

Opinions under the Bombay Nurses Midwives and Health Visitors Act, 1935.

File No. O Nurses/41

Std. Sectt. Slip 24 B a.

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By-Law 38 of the Bombay Nurses Midwives and Health Visitors Registration By-laws, 1935, provides that -

(1)" any person who proves to the satisfaction to the Council that such person has been registered either generally as a nurse for the sick or as a nurse of some special class or as a midwife or as a health visitor in any part of His Majesty's Dominions outside the Presidency of Bombay shall, upon an application to the Registrar in Form B in Schedule II to the Rules, be entitled to be admitted to the appropriate part" of the Register maintained by the Bombay Nurses, Midwives and Health Visitors Council:

(2). Provided in respect of the Dominions the Council is satisfied inter alia " that person registered under the (Bombay Nurses, Midwives and Health Visitors Registration) Act, (1935), are admitted therein to the Register of nurses, midwives or health visitors as the case may be on terms not less favourable than those contained in clause (1) of this by-law."

It has been found that in certain Dominions, such arrangement would be of no practical utility to the Indian nurses and midwives trained in this Province, as under the immigration rules of those Dominions, free entry of Indians into the Dominion is not permitted. The Council has therefore resolved that the By-law 38 should be amended so as to limit the concession to those Dominions the immigration rules of which do not prevent Indian nurses from entering freely, settling and practising their profession in the Dominion. In G.D. office note dated 21-6-41, it is however stated the existing

by-law is wide enough to enable the Council to refuse to register a person from a Dominion which does not permit persons registered in this Province to settle down and practise within its limits and amendment of by-law 88 is not required. The D.L.A. has been asked to advise whether the view taken by G.D.Office is correct.

2. The phrase underlined above is in respect of the qualification for reciprocal registration as set out in clause (1) of the by-law. The qualification consists of an exsting registration in favour of the person in the appropriate register of the reciprocating territory. The right to immigrate and practise the profession does form part of the right to have one's name registered in the professional register. The by-law as it stands does not therefore permit consideration of reciprocity of immigration or of professional facilities. An amendment will be necessary for the purpose. The view taken by G.D. at page 25 ante is not correct.

Sd. P.N.M.
29/7.
Remembrancer of Legal Affairs.

U.R. to G.D. No. 6762, dated the 31st July 1941.

M.V.V.
30/4.

Office of the R.L.A.

The Bombay Nurses, Midwives and Health Visitors Registration Act, 1935, provides for the registration of nurses, midwives and health visitors in the Province of Bombay. There is no provision in the Act which debars nurses, midwives or health visitors who are not registered from practising their profession. The proposed amendment to by-law No.28 of the Bombay Nurses, Midwives and Health Visitors Registration By-laws, 1935, which can legally be made under section 23(1)(i) of the Act, will debar nurses of certain Dominions from getting themselves admitted to the Register of Nurses, Midwives and health visitors in the Province of Bombay but they will not in the absence of any provision in the Act to that effect be debarred from practising their profession in the Province. Consequently the proposed amendment to by-law No.28 will not be invalid by virtue of any of the provisions with respect to discrimination contained in section 119 in Chapter III of Part V of the Government of India Act, 1935, or any other section in the said Chapter.

2. It does not appear that the proposed amendment affects any of the matters enumerated in the Federal Legislative List (List I in the Seventh Schedule to the Government of India Act, 1935) The amendment relates to a matter specified in entry 16 in Part I of the Concurrent Legislative List (Legal, medical and other professions) and as such is within the competence of the Province under section 49(2) of the Act.

Sd. P.N.M.
6/11.
Remembrancer of the Legal Affairs.

U.R. to G.D. No.9615, dated the 7th November 1941.

H.V.V.
20/11.